

MAINE HARNESS RACING COMMISSION
MINUTES OF MEETING
July 9, 2014
Gambling Control Board Conference Room
Department of Public Safety Building
45 Commerce Drive, Augusta, Maine

Commission Members Present: Barbara Dresser, Chair, James Tracy, Gary Reed, Dirk Duncan and Michael Timmons.

Staff Members Present: Ron Guay, AAG, Henry Jackson, Miles Greenleaf, Ralph Canney and Carol Gauthier.

Mr. Jackson asked for a moment of silence for Albert Smith, Jr. and Dennis May's sister who passed away recently.

Commissioner Dresser asked for a motion to approve the minutes. Commissioner Tracy made a motion to approve the minutes of May 12, 2014, June 11 & 12, 2014 as submitted. Commissioner Reed stated that on June 12th page 4, line 3 should read large enough in "size". Commissioner Tracy amended his motion to include the correction. Commissioner Reed seconded. Vote 4-0 with 1 extension (Commissioner Duncan).

ADJUDICATORY HEARINGS:

1. Commissioner Dresser stated that Mark Athearn is appealing the decision of Shane Bacon, Presiding Judge at Bangor Raceway. Mr. Athearn is alleged to have violated MSHRC Rules Chapter 7 Section 54.M, Interfering with another horse. The alleged violation occurred in the 2nd Race at Bangor Raceway on June 23, 2014. The Judges Decision resulted in a fine and placing Mr. Athearn's horse from 3rd to 7th. She stated because of the relationship that she has with the Athearn family she will step aside for this hearing. Attorney Guay hearing officer for this proceeding stated that this hearing will be conducted under the Maine Administrative Procedure Act. It is an adjudicatory proceeding. Mr. Jackson will be representing staff. Mr. Athearn was present. Attorney Guay asked questions of the Commission members. Commissioner Duncan stated that he saw the race in question. Mr. Athearn and staff had no problem with Commissioner Duncan having prior knowledge of the race. Attorney Guay asked if either party to the proceeding has an objection to anything to do with this case at this point. There were no objections. He asked Mr. Athearn if he was represented by an attorney. Mr. Athearn responded with "no". All parties may testify, examine and cross examine witnesses. The Commissioners may also have an opportunity to examine all witnesses. Any documents that the parties want the Commissioners to have please enter them now. Mr. Jackson stated that he has the Official Race Program for June 23, 2014 at Bangor Raceway as well as the judges report as Exhibit 1; Notice of Judges Decision following the hearing as Exhibit 2; USTA Fines and Suspension form that was issued by the judge as Exhibit 3; Appeal filed by Mr. Athearn as Exhibit 4 and Notice of Hearing to Mr. Athearn is Exhibit 5. Attorney Guay asked Mr. Athearn if he had any objection to admission of the 5 exhibits. Mr. Athearn stated he does not. Attorney Guay asked Mr. Athearn if he had any documents to enter. Mr. Athearn stated that he had no documents to enter. Mr. Jackson stated that he did have a tape recording of Mr. Bartlett, Jr. who was in the race who filed the objection. He stated that Mr. Bartlett could not be here because of employment reasons and he is asking if the tape can be entered into the record. Attorney Guay asked Mr. Athearn if he had an objection to entering the recording. Mr. Athearn stated yes. He has a job and he is here. Attorney Guay stated that his objection is that he is not here. Mr. Athearn stated yes. Attorney Guay asked

what the recording is stating. Mr. Bacon stated that it is Mr. Bartlett, Jr.'s version of the race. Attorney Guay stated that the issue is whether or not Mr. Athearn would be able to ask that witness questions. Normally, testimony the other side is allowed to cross examine the witness and admitting the evidence without the opportunities to cross examine the witness could be prejudicial to Mr. Athearn. Attorney Guay stated that the State has moved for admission of an audio tape statement by a witness. The witness had the opportunity to be here today but elected not to be. As hearing officer, he is ruling against the admission of the tape because the licensee who filed the appeal did not have the opportunity to cross examine the witness. Attorney Guay swore in the following witnesses, Shane Bacon, Pam Merrill, Ronald Merrill, Mark Athearn and Michael Tammany. Mr. Jackson stated that he would like to introduce the tape of the race on June 23, 2014 second race at Bangor Raceway. Attorney Guay stated that State would like to admit Exhibit 7 as the video tape of the race. He asked Mr. Athearn if he objected to the video tape. Mr. Athearn stated "no". Attorney Guay stated that Exhibit 7 the video tape of the race has been admitted into the record. Mr. Jackson stated in his opening statement that this appeal is based on an individual's belief that what the judges' saw was not exactly as it appeared. However, the judges upon further review of the tape several times indicated that the appellant did try to fill a hole where it did not exist and did not keep pace with the horse that was ahead of him, and therefore caused the horse (#2) to break and therefore impeded his progress. Mr. Athearn stated in his opening statement that the biggest thing with the race he thinks Mr. Bacon keeps saying that I think he paced with the horse in front of him and the horse in front of him beat him by 14 lengths so it would be hard to keep pace with him; and the horse behind Mr. Bartlett didn't close any ground so we were still maintaining their pace. The horse in the front was still going faster. Mr. Bacon provided testimony. He stated he is a member of the Racing Officials Accreditation Program (ROAP). He stated that he attended this program in Canada for his accreditation as an official. Mr. Bacon stated that any act that causes a horse or driver to alter or do something different in what they were doing is construed as interference and it doesn't have to be contact. Into the first turn, Mr. Bartlett is leaving on the inside in the one path and he is close to the pylons and he's tapping his horse. The leader, Mr. Graffam is going to the front with ease. Mr. Athearn was on the outside of him on the seven hole. He was coming over to get into a hole and we see Mr. Bartlett looking over to him to see what he is doing and Mr. Athearn you never see him looking over at Mr. Bartlett but continuing on a straight path and Mr. Athearn is crossing down in. Mr. Bartlett upon seeing that he's certainly going to come into this hole stops tapping his horse to fill the hole. It's his job to fill the hole it's not his job to give somebody a hole. When he takes to his horse, and these are 2 year olds and we take that into account, we believe that the hole is very tight, but nevertheless he inches his way into the hole. Mr. Bartlett is now altering what he did. When Mr. Athearn gets into the hole finally and he continually edges his way in driver Mr. Graffam is pulling away from him. What that says to him is you've wanted this hole, you took this hole and when you did, did you meet your responsibilities as a driver and continue to try to pace up toward that horse. While doing that, he didn't notice that Mr. Athearn ever urged his horse to go on. He looked the same as he did when he got into the hole. When Mr. Bartlett is behind him and the horses head is at his helmet when he finally gets in and the horses head goes back into the left. He doesn't see where Mr. Bartlett's leg hits his wheel and his horse made a break. He stated that there was no objection put in at this point. Mr. Bacon stated that he didn't put the inquiry sign up right when that happened. He made a comment to Mr. and Mrs. Merrill that they need to look at that. Before they could look at that there was an objection lodged by Mr. Bartlett. They listened to both drivers and looked at the tape. The judges agreed with the decision that this horse should be placed. Mr. Athearn asked Mr. Bacon if he thinks he slowed his horse down. Mr. Bacon stated that he didn't think that Mr. Athearn intentionally slowed his horse down. He thinks that Mr. Athearn didn't meet his responsibility as a driver when you got into a hole that was tight as best that you did not keep your horse pacing on, and Mr. Bartlett had nowhere else to go but up on your back and make a break. Mr. Merrill gave his view of the race.

He stated that Mr. Bartlett was along the rail and Mr. Athearn came in close and once he got into the hole his horse did not move on and therefore did impede Mr. Bartlett. Therefore, Mr. Bartlett's horse had to change the momentum of his horse and did go into a break. Prior to the race being over, we said that was something we need to look at after the race. The patrol judge Mike Tammany did call in and say that Mr. Bartlett has placed an objection against Mr. Athearn. After that he called Frank Hall to get the two parties involved to the phone by speaker phone and all three listened to the testimony on what happened during the race. After that they watched the replay several times also in slow motion and that gave him and the other two judges a more accurate picture of what happened. Then they made a decision that there would be placings and Mr. Athearn's horse had to be placed behind Mr. Bartlett's horse. Commissioner Reed asked if he could confirm that the decision as reached was unanimous. Mr. Merrill stated yes and the reason why he voted the way that he did at Bangor this year the criteria for interference has been very consistent and in order to continue that tradition of consistency on interference he had no other choice than go with the decision that he went with. Pam Merrill gave her view of the race. Ms. Merrill stated that on the first turn Mr. Bartlett was on the rail and Mr. Athearn was on the two path. Mr. Bartlett was trying to keep the hole filled and Mr. Athearn crossed over in front of him in a hole that was very very tight and when he came into the hole she believes Mr. Bartlett's horse still had a little bit of momentum when Mr. Athearn came into the hole he had to take into his horse a tiny bit and that was enough to set the horse off into a break. Mr. Jackson asked Ms. Merrill if her decision was in concert with Mr. Bacon and Mr. Merrill. Ms. Merrill stated yes and she said that when this happened all of them in the stand said that this is something they have to look at. At the end of the race they did get the objection from Mr. Bartlett. Mr. Athearn asked if that was a rule that he crossed over in front of him and he had momentum that if he runs up on his back with momentum that it's his fault. Ms. Merrill stated that the reason she thought it was his fault is she truly didn't believe there was clearance there when you went into the hole. She thinks the tape will show that his horses head is coming onto your helmet and shoulders and she just thinks that you squeezed into that hole that was just a little bit too small. Commissioner Timmons stated that all three individuals included you Ms. Merrill said that he squeezed into a tight hole. Did any part of the horse's equipment or the horse's sulky or the man sitting in it touch the horse before he got in the hole? Ms. Merrill stated that she is just going to answer that by saying Mr. Bartlett said so. Commissioner Timmons stated that Mr. Bartlett said that his horse hit him when he was coming into the hole. Ms. Merrill stated yes, when he was coming into the hole. Mr. Jackson asked Ms. Merrill in her opinion was Mr. Bartlett attempting to fill the hole between himself and Mr. Graffam. Ms. Merrill stated she thought so she thought he was urging his horse on. Mr. Jackson stated if that be the case trying to fill that hole in your opinion was that closing that hole and therefore decreasing the amount of room available for Mr. Athearn to move into. Ms. Merrill stated yes at that point. Mr. Jackson asked in your opinion do you believe that by Mr. Athearn moving into that hole that was being closed that caused Mr. Bartlett to take into his horse. Ms. Merrill stated yes. Mr. Jackson stated that the State will rest until the view of the video tape. Mr. Athearn stated that he would watch the video tape first. Commissioner Duncan asked Mr. Bacon and Mr. Athearn when the break occurred on the video tape. Attorney Guay asked Mr. Athearn to have his witness Mr. Tammany to testify while viewing the video tape. Mr. Tammany stated that that horse took 4 or 5 pacing steps before he broke while Mr. Athearn was in the hole. That's what he saw from his point in the back of the car. There was a break and no interference. Attorney Guay asked Mr. Jackson if he had any questions for the starter. Mr. Jackson stated yes. Attorney Guay stated for the record that you have testified regarding the video and you have taken your oath. Your direct testimony for Mr. Athearn occurred during the video. Mr. Jackson asked Mr. Tammany in his opinion did Mr. Athearn move into that hole where there was room. Mr. Tammany stated yes. Mr. Jackson asked in his opinion was Mr. Bartlett trying to fill that hole as he was coming out of the first turn. Mr. Tammany stated yes, but not fast enough. Mr. Jackson stated that Mr. Bartlett was attempting to fill that hole.

Was he not? Mr. Tammany stated yes. Mr. Jackson asked if he was decreasing the amount of room that would be available for a horse to move in between him and the number one horse. Mr. Tammany stated no. Mr. Jackson stated that he was not decreasing the amount of room. Mr. Tammany stated no. The amount of room that was available coming out of the turn say he doesn't know how many feet after coming out of the turn going up the backstretch was pretty much the same. It was close. He believes it was the same amount of space for another horse to get in there. Mr. Jackson asked that the position he was sitting in in the starting gate looking into that first turn did you see whether or not Mr. Athearn moved in and may have caused Mr. Bartlett's horse to hit the wheels. Mr. Tammany stated that he had an opportunity he did not see that. Mr. Jackson asked if he saw Mr. Athearn looking to see where Mr. Bartlett was as he moved down into that pull. Mr. Tammany stated not at that time. Mr. Jackson asked if he saw Mr. Bartlett looking to see where Mr. Athearn was. Mr. Tammany stated yes. Mr. Jackson asked if he saw Mr. Bartlett take into his horse. Mr. Tammany stated yes he held him. He kept him steady. Mr. Jackson asked if he saw Mr. Athearn as he moved into that hole urge his horse on. Mr. Tammany stated no. Attorney Guay asked if any Commission member had questions. Commissioner Reed asked Mr. Tammany to the best of his recollection what did Mr. Bartlett say when he filed his objection with you. Mr. Tammany stated that he wanted to put an objection against the seven for interference. Attorney Guay asked Mr. Athearn based on the question asked by Commissioner Reed if he had any questions. Mr. Athearn asked Mr. Tammany if he felt he had room to get into the hole. Mr. Tammany stated yes. Attorney Guay asked Mr. Athearn if he has additional testimony. Mr. Athearn stated that a lot of it was that he didn't keep pace with the horse in front of him. That he was trying as much as he could, he wasn't whipping the horse, but he was hollering at the horse and nobody else behind them gained up ground. It wasn't like he was trying to slow his horse down to impede his progress. Mr. Athearn stated that he did keep up to the hole. Mr. Jackson asked Mr. Athearn when he decided to he looked to fill that hole did you look to see where Mr. Bartlett was. Mr. Athearn stated yes, he didn't turn his head around and look but he could see. Mr. Jackson asked if he noticed that Mr. Bartlett was making an attempt to fill that hole. Mr. Athearn stated yes, as anybody would be. Mr. Jackson asked when he decided to move into that hole did you look to make sure that you had clearance before you continued down into that hole. Mr. Athearn stated yes. Mr. Jackson asked Mr. Athearn when you moved into that hole did you make any attempt to drive your horse forward so as to make sure there was plenty of clearance between you and Mr. Bartlett's horse. Mr. Athearn stated yes, he wanted the two hole. Mr. Jackson stated that in the video that he watched can you explain to him what attempt you made to move your horse forward. Mr. Athearn stated that he was hollering at him. Mr. Jackson asked if there was any attempt made by either the rein or the whip. Mr. Athearn stated no, he would never hit them. Mr. Jackson asked if he feels as though he made every attempt to not to cause any interference with Mr. Bartlett's horse. Mr. Athearn stated absolutely. Mr. Jackson asked if he noticed that Mr. Bartlett took into his horse after he moved in. Mr. Athearn stated after he moved in, yes. Mr. Jackson asked if he was all the way in when he took a hold of that horse. Mr. Athearn stated yes. Mr. Jackson stated that he indicated in his testimony that the horse was moving up over him. Mr. Athearn stated when he was in front of him yes. Mr. Jackson stated does that indicated to him that you perhaps moved into a hole that didn't exist. Mr. Athearn stated no because there could be a hole five lengths somebody could set in but if he's got momentum unless he grabs his horse up he's going to run up on their back too. Mr. Jackson asked Mr. Athearn in his opinion who had the momentum. You or Mr. Bartlett. Mr. Athearn stated that he had the momentum to get into the hole. Commissioner Duncan asked Mr. Athearn if he was threatened about getting into the two hole. Mr. Athearn stated no. Commissioner Duncan asked if he had stayed out two or third horse place maybe another twenty feet you'd had more clearance for that hole. Mr. Athearn stated that he didn't think the hole wouldn't have been there. Commissioner Duncan asked who was going to take it. Mr. Athearn stated Mr. Bartlett. Commissioner Timmons asked what other option could you have taken. Mr. Athearn stated there wasn't any other option

really, other than one handing his horse to keep up. He was hollering at his horse. Commissioner Timmons stated that in the replay when the driver released the horses to say go there was only a few seconds before the man on the inside of you who was Graffam and you how many lengths do you think you might have been ahead of that horse on the rail by the time you went by the starting line. Mr. Athearn stated almost three lengths. Commissioner Timmons stated that he agreed. He has a point. Attorney Guay asked Commissioner Timmons if he was going to discuss during deliberations. Commissioner Timmons stated yes. Commissioner Duncan asked Mr. Athearn if he thought Mr. Bartlett was going to get the two hole. Mr. Athearn stated that if he had of set out there he was going to drive up the inside of him. Attorney Guay asked if there were any more questions based on the questions asked. He asked for closing statements. Mr. Jackson stated that if the Commission takes into consideration the testimony of the three judges and take a look at the video and then remember what the rule is. Commit any act which shall impede the progress of another horse or cause him to break. If you take a look at the actions taken by Mr. Athearn, he tried to move into a hole that was being closed and did not keep his horse moving forward; therefore, causing Mr. Bartlett to take into his horse. You can see it on the video. You heard it through the testimony and even the starting judge as well as Mr. Athearn did not indicate that they were actually moving that horse forward until after he tried to fill into that hole. Mr. Athearn stated that he was trying to make his horse move forward but other than the horse that was trying to run him over and the horse in the front everybody else was going the same speed anyway. Attorney Guay closed the hearing. The Commission moved into deliberations. Commissioner Tracy stated that this was a close call but he has to believe that moving into the hole which was extremely tight had to cause interference with Mr. Bartlett's horse. It almost appears like the nose of Mr. Bartlett's horse was on Mr. Athearn's shoulder just before the break. He has to agree with the judges that it just was too tight and it appeared that Mr. Bartlett was trying to close the hole and probably would have done so to some extent. He could understand why Mr. Athearn wanted to jump into that hole he didn't want to get stuck on the outside. Commissioner Timmons stated that his first point is that he feels at a disadvantage when the other person would send in something and he can't be here so that we could hear the other side from the driver that was sitting on the other horse. He thinks that puts them at a disadvantage. He thinks it's important enough. He lodged a complaint but it wasn't important enough for him to come here so he would help them to get a clearer picture. The only picture we get is looking at something a few times that everyone else had a lot of time to look at. He could have shed some light on the questions that we may have. If fifty drivers in a race had the exact same situation that existed in that race they would have wanted that horse in that two hole and he didn't hear anyone say that when he got into that hole even though it was tight his horse didn't hit that horse. If his horse didn't hit that horse, and he had to take into him a little bit it looked to him like is it possible that the horse would have made a break rather he went into that hole or not. Can't answer that question but maybe Mr. Bartlett could have shed some light on that. It puts him at a disadvantage because he's not hearing the total. He respects judges and he thinks it's close. Commissioner Duncan stated there is so much being there himself many times. There is so much anxiety going into that first turn and on top of that you've got a field of two year olds. He agrees with Commissioner Timmons on one aspect. If you're going to make an objection on the racetrack as a driver then you should make every opportunity to come to the hearing to plead their case. He still is not sure how he feels about this. Commissioner Reed stated that he shares Commissioner Duncan and Commissioner Timmons concerns. We are trying to resolve a matter without all the tools we could use to do that. He has a great deal of respect for the judges. It's a terribly difficult job and they rarely get much praise or compliments but without them there would be no racing. Another thing that troubles him about this situation is that the starter being much closer to this event than the judges presented a completely different testimony and that's troubling to him. Not that he thinks the starter is being untruthful he answered said what he thought he saw that there was adequate space for this to happen. He's troubled by this discrepancy between. The video is difficult

to see. It looked to him that the break occurred after Mr. Athearn secured his position. He's not sure that Mr. Athearn committed an infraction. Commissioner Timmons concurred with Commissioner Reed. Attorney Guay asked if he is hearing that the video tape is not proving one thing or another. Commissioner Timmons stated that it's not proving what the questions he'd like Mr. Bartlett to sit here and answer. Attorney Guay stated that Mr. Bartlett is not here and you have to make your ruling based on the evidence that you have before you. You have evidence from three judges that viewed a video tape and reached a conclusion. That's actually opinion. Now you have the four of you watching a video tape and deciding whether or not you've agreed with their conclusion. Moreover you do have an additional element, you have the starting judge giving another view point and you need to weigh that view point. You've heard testimony from the driver and you've seen the video tape. He would caution that the fact that Mr. Bartlett is not here should not in any way make it less likely that the fraction occurred. He asked if the pole if you were to have a motion find a violation going down the line. Commissioner Timmons stated that his pole would be that he does not see the driver of the seven horse cause a reason for that horse to make a break. He does not see a violation. Commissioner Duncan stated that he could go either way. In this situation he is going to rule with the judges because of the video and what they saw. There could have been interference and he could make a case where there wasn't interference. Commissioner Tracy stated that it is a close call and he thought there was enough there to establish the interference. Commissioner Reed stated that the fact that when Mr. Bartlett lodged his objection according to the testimony he didn't say he hit my wheel he said he wanted interference. The starter has a much better view at that point in the race on that part of the track than the judges. He did not find the video sufficiently clear to him so that he could say that driver Athearn clearly interfered with driver Bartlett. If there were to be a motion, he would find in his heart there was no infinitive prove of a violation. Attorney Guay stated that his poling tells him it is two to two. This is where any one of you would try to sway the others one way or another.

The video tape was viewed again at this time. Questions were asked while viewing the tape. Mr. Jackson and Mr. Athearn did not object to the questions from the Commission members.

Attorney Guay asked the Commissioners would like to indicate that they may be changing their positions. Commissioner members stated that it did not make a difference that Mr. Bartlett was not present. Mr. Jackson stated that there has to be a finding by the Commission it has to be a majority vote to uphold the judges' decision or to find to overturn the judges' decision. Attorney Guay stated that they cannot not have a conclusion. Commissioner Tracy stated that he hopefully can admit when he is wrong so he has to come back to Mr. Tammany's evidence stating that there was room and that there wasn't contact. Seeing that he would have to change his vote. Attorney Guay asked if there was a change in pole that if there was a motion it would be 3 -1. Commissioner Tracy stated yes. Attorney Guay stated that if the deliberations are done then one of you would need to make a motion and another one of you would second. Commissioner Duncan stated that he is going to stay where he is on the pole vote. Commissioner Timmons made a motion to grant the appeal in favor of the driver involved and overturn the judges' decision for placings. Commissioner Reed seconded. Vote 3-1. Commissioner Duncan opposed.

2. Commissioner Dresser stated that they would conduct a Hearing on Horse Supply in accordance with 8 MRS Section 271.8 to determine if the horse supply has been adequate, and if not, should adjustments be made to the number of dashes that have been awarded for the remainder of the year. Attorney Guay asked if there were any intervenors that have any written testimony that they are going to submit. There was none. Do any of the intervenors have any issues with this hearing up to this point? Mr. Higgins asked for copies of material submitted. There were no objections from intervenors. Mr. Jackson stated that he has two exhibits. Exhibit 1, Notice of Hearing an email to the

parties of the proceeding and Exhibit 2, Comparison Horse Supply Data from 2012 to 2014 for Bangor Raceway and Scarborough Downs. Attorney Guay stated that the State has moved for admission of Exhibit 1 and Exhibit 2. There were no objections from the intervenors. Mr. Jackson stated that they have been keeping track of the horse supply in the State of Maine since 1999. He gave an overview of Exhibit 2 and staff's recommendation based on what they're seeing and what the tracks are basically doing at Scarborough and Bangor to recognize the lack of abundance of horses available that they are watching the number of dashes for their card and are trying to do a much better job. At this point knowing, what they've awarded for dashes for the remainder of the year and hoping that management can continue to track the horse supply. The recommendation from Commission staff would be to not make any adjustments in the number of dashes because you can only limit it to ten any way except for holiday or special day for either of the fairs or commercial tracks. Attorney Guay asked if the intervenors had questions of Mr. Jackson. Seeing none he asked the Commission members. Commissioner Dresser asked Mr. Jackson if the same information is available for the balance of the year for previous years. It would be helpful to know how things looked up through the end of June each year and from June to the end of the year. Mr. Jackson stated that he or Mr. Canney could get that information to them. Attorney Guay asked if there were any more questions from the Commission. Ms. Perkins asked if there is a shortage of horses why are they changing the qualifying times. Mr. Jackson stated that we the Commission has no jurisdiction over establishing the qualifying times at the track, that's the responsibility of the race secretary and management. Attorney Guay asked the Commission members if that was relevant to the horse supply decision. There's been a recommendation not to change the number of dashes. Commission members stated no. Attorney Guay asked if anyone had any questions. Mr. Higgins asked what SLJ stood for. Mr. Jackson stated it stands for sick, lame or judges. Mr. Higgins asked what the definition was for racebacks. Mr. Jackson stated that horses that race back within four days. Commissioner Dresser asked if that was four days at the same track or four days in the state. Mr. Jackson stated four days period. Mr. Canney stated that it is three days not four. Mr. Jackson stated that management and the Commission working together helped with the horse supply. Commissioner Reed stated that he finds the racebacks troubling to him. He thought there was cause for concern in Bangor. Mr. Jackson stated that the problem that Bangor experienced was the weather had a greater impact more so than at Scarborough. Mr. Nichols stated that the nature of the horse supply in Bangor is they really count on racing twice every eight days and they have a fair population of maritime horses coming in. Mr. Canney stated that the population in Portland area is much greater than the population in the Bangor area. Commissioner Dresser stated that the days of the week also have an impact on it. Mr. Nichols stated that for the first time Bangor had non-betting races. We have had a few here because statutorily they had to be non-betting. That has not happened before. Attorney Guay stated that Mr. Jackson has made his recommendation. Any questions for the witness. Seeing none the hearing is closed. Commissioner Tracy made a motion that there is sufficient evidence to consider the race horse supply as being adequate at this time and that no action be taken to reduce the number of dashes for the remainder of the year. Commissioner Timmons seconded. Vote 5-0.

UNFINISHED BUSINESS:

1. Commissioner Dresser stated that they would review Chapters 11, 17 and 21 for final approval to go to hearing. Mr. Jackson stated that the only changes that he has made that were given to him that affects Chapter 11 regarding the list of drugs rather than adopting it by reference and in Chapter 17 he made changes to the penalty phases that more reflect what is supposed to be in there. Chapter 21 are the ones that are the recommendations from Attorney Guay. Commissioner Dresser stated that Chapter 11 and 17 are in the final version in order for us to proceed to public hearing. Mr. Jackson stated that is correct. Commissioner Dresser asked again if the rules that were presented today are in final format. Mr. Malia stated no. They reviewed and made changes to Chapters 11, 17

and 21. Commissioner Duncan made a motion to advertise Chapter 11 and 17 with corrections. Commissioner Timmons seconded. Vote 4-0. Commissioner Tracy not present for the vote. Commissioner Duncan made a motion to advertise Chapter 21 with changes. Commissioner Reed seconded. Vote 3-0. Commissioner Tracy and Commission Timmons not present for the vote.

NEW BUSINESS:

1. Commissioner Dresser stated that they will conduct a hearing on the Commission's budget for Fiscal Years 2016 and 2017. Mr. Jackson gave a handout of the budget for fiscal year 2016 and 2017. He gave an overview of where the money is and what accounts the money is deposited in. The 02 account is the monies that are generated from the Bangor Racino and the Oxford Casino for the Agricultural Fairs. The 03 account is monies generated from the Bangor Racino and the Oxford Casino for purse supplementation. The 04 account is monies generated from the Bangor Racino for the Commercial Tracks. The 05 account is monies generated from the Bangor Racino for the OTB's. The 06 account is monies generated from the Bangor Racino and the Oxford Casino for the Sire Stakes Program. The 07 account is the operating budget. He doesn't have any information at this time for the 01,2,3,4,5 and 6 accounts those are generated by the Bureau of the Budget and brought to him. He also stated that the monies will have to be transferred from the Cascade to support the Harness Racing industry over the next two fiscal years, \$317 and \$332. Attorney Guay asked for the record that notice was sent to all the intervenors as required by the statute. Mr. Jackson stated that was correct. Commissioner Dresser stated that they need to make findings regarding and develop the recommending operating budget for the biennium. Mr. Jackson stated that the notice went out to all the licensed agricultural fairs, all the licensees that conduct pari-mutuel wagering, the Maine Harness Horsemen's Association, the Maine Standardbred Breeders and Owner's Association, the Maine Association of Agricultural Fairs, the Department of Agriculture and all the licensed Off-Track Betting Facilities who would be impacted by any of the transfers from the Cascade. Commissioner Dresser stated that for today they are looking for a preliminary approval. Mr. Jackson stated that by statute you have to review and approve and then a year from now you have that opportunity to go back and take another view. The second fiscal year to see whether or not to make any adjustments. Attorney Guay asked if there were any applications for interventions. Mr. Jackson stated no, there were none. Commissioner Dresser stated that at this point we need findings and findings to the affect that based on the information we've been provided we find the figures appropriate for approval. Mr. Jackson stated that you basically reviewed and are recommending that this be your budget for the next biennium which will not be reviewed until January by the Legislature and not become effective until July 2015. Commissioner Dresser asked for a motion for approval contingent upon approval by the Legislature and our motion should include findings to the effect that we've been provided adequate information for such approval. Commissioner Tracy stated that based upon the information that has been provided for their review he would move for approve of the figures as submitted subject of course to later approval by the powers that be. Commissioner Timmons seconded. Vote 5-0.

REPORTS:

1. Commissioner Dresser asked for the Executive Director's Report. Mr. Jackson stated that the rules that they adopted are still before the attorney general's office. The Sire Stakes program is progressing very nicely. He also stated that they were seeking applicants for the vet tech position at Bangor, the fairs and at Scarborough. They are readvertising the position. OTB Facilitators has granted approval of Pioneer Gaming to become the new owners of the facility. All the information that has been requested by the investigators services has been forwarded. Hopefully we can have this on the August meeting. The temperature strips have been applied to the test sample containers and they have been recorded. We have had two human positives for opiates.

Commissioner Dresser asked about the out-of-competition testing. Mr. Jackson stated that he has been short of staff. Commissioner Dresser asked if they could hire contract people. Mr. Jackson stated that he hopes they can resume the program he has started in April. Commissioner Dresser stated it is a priority.

OTHER BUSINESS:

1. Commissioner Dresser stated that they would like an update on the track conditions at Scarborough Downs. Mr. Cobbett stated that since the last meeting the track conditions has improved immensely. The pylons were pulled on Sunday night and the track was graded on Monday and every day Monday since. Quality control on the screens for the stone dust on the inside. In September the track will be scheduled to be laser graded. Commissioner Dresser asked if the track can be used to jog on when the track will be closed in September. Mr. Cobbett stated that they have always been able to use the mile track weather permitting. Commissioner Reed stated that he has made it a point to be at Scarborough Downs at least one day of each week of racing and a number of drivers have told him that the track is much better. Commissioner Dresser has seen the drag truck going much slower and there are also moments when it's wheezing by. If you could remind them to slow down that would be greatly appreciated.

2. Commissioner Dresser asked Mr. Cobbett about the simulcasting going down for at least one day. Mr. Cobbett stated that the signal has been going down more than one day. The best information that he has received is that they were either hacked into or penetrated with a virus. They offered to the OTB's at no cost to go through their computer systems to provide their signal.

PUBLIC COMMENT:

Ms. Perkins stated that she has had two complaints about simulcasting in Bangor and in Sanford.

The meeting adjourned at 3:55 p.m.

Respectfully submitted by:

Henry W. Jackson

Executive Director